

## **REMARKS**

Applicants reply to the Office Action dated October 13, 2010 within two (2) months. The Examiner rejects all pending claims 17-33. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Applicants assert that the application is in condition for allowance and reconsideration of the pending claims is requested.

### **Rejections Under 35 U.S.C. § 112**

The Examiner rejects claims 17-33 under 35 U.S.C. § 112, second paragraph, as failing to indentify with the written description requirement. In particular, the Examiner objects to the inclusion of the elements “profile” and “profile information” and contends that these elements are not described in the specification in such a way as to reasonably convey to one skilled in the art that Applicants had possession of the claimed invention at the time the Application was filed. Applicants respectfully disagree; however, Applicants amend certain pending claims, without prejudice or disclaimer, to further clarify the patentable aspects and to expedite prosecution. As such, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

### **Rejections Under 35 U.S.C. § 103(a)**

The Examiner rejects claims 17-28 under 35 U.S.C. § 103(a) as being unpatentable over Fredregill (U.S. Patent Application No. 2005/0144074) in view of Davis (U.S. Patent Application No. 2004/0193491). The Examiner rejects claims 29-33 under 35 U.S.C. § 103(a) as being unpatentable over Fredregill and Davis in view of Official Notice. Applicants respectfully disagree with the Examiner’s rejections; however, Applicants amend certain pending claims, without prejudice or disclaimer, to further clarify the patentable aspects and to expedite prosecution.

Initially, Applicants traverse the official notice taken by the Examiner on page 10 of the Office action because “the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” MPEP 2144.03. Applicants therefore respectfully request that “the examiner provide documentary evidence in the next Office action if the rejection is to be maintained.” Id.

Fredregill discloses an on-line shopping system that can be associated with a loyalty account. The points from the loyalty account can be used to buy items or receive a discount. However, as noted by the Examiner, the Fredregill system is a closed system that does not allow for the association of third party accounts that could receive the non-tangible items purchased with loyalty points. Moreover, Fredregill does not evaluate each item to determine whether the item is an independent item or a dependent item (e.g. requires an associated item for use). Where the item to be purchased is a dependent item, Fredregill does not prohibit purchase of the dependent item without the independent item.

Davis discloses a computer-enabled certificate program. The system allows a system provider to provide incentives to users in the form of certificates. However, similar to Fredregill, the system of Davis requires that certificate be obtained from one system (e.g. Loyalty Program Site 602) and then requires that the user leave the first system and interact with a separate system to redeem the reward. This multi-system approach makes the transaction and the user experience more difficult and inefficient. At page 12 of the Office Action, the Examiner contends that the steps of acquiring and redeeming the certificate are all performed at the loyalty program cite. In paragraph 0032 (emphasis added) which refers to Figure 6 (shown below), which is relied on by the Examiner, Davis discloses that:

[0032] As shown in FIG. 6, an embodiment provides that a certificate purchase may be performed using loyalty points. After a member earns loyalty points through a loyalty program (block 601), **the member contacts the loyalty program site (block 602) to redeem the points in exchange for a certificate (block 610).** The redemption is reported to the issuer for activation (block 614). The issuer, who maintains an inventory of certificates (block 618), generates certificates having a unique redemption code (block 616). The member receives the certificate with the redemption data (block 612) and contacts the issuer redemption site (block 603). **At the issuer redemption site, the member inputs their name and contact information (block 620) and the certificate redemption code (block 622).** The member then selects a redemption method (block 624). The redemption methods in this embodiment include but are not limited to a college savings account, a retirement savings account, a US Savings Bond, a charitable organization and cash back. After the redemption method is selected, the issuer transfers the funds to the appropriate institution or individual (block 626). (emphasis added)

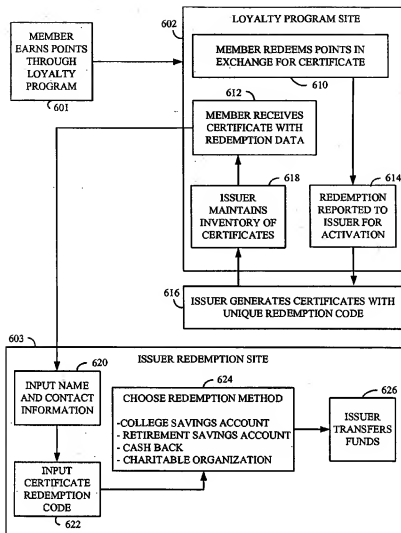


Figure 6 of Davis

Based on paragraph 0032 and its associated Figure 6, Applicants maintain that Davis requires that a user redeem loyalty points at a first system (Loyalty Program Site 602) to obtain a certificate and redeem the certificate at a second system (Issuer Redemption Site 603). Applicants acknowledge that the Loyalty Program Site may notify the Issuer Redemption Site. However, Applicants maintain, based on the language of paragraph 0032 of Davis, that a user must first redeem loyalty points at the Loyalty Program Site (i.e. “the member contacts the loyalty program site (block 602) to redeem the points in exchange for a certificate (block 610)”) and then the user must take the certificate to the Issuer Redemption Site (i.e. “[a]t the issuer redemption site, the member inputs their name and contact information (block 620) and the certificate redemption code (block 622)”) to obtain the benefit associated with the certificate.

As such, Applicants assert that the cited references alone or in combination do not disclose or contemplate at least, **“determining, by the computer based system, whether the non-tangible item is at least one of a independent item and a dependent item, wherein in response to the non-tangible item being an independent item the first request to purchase is further processed, and wherein in response to the non-tangible item being a dependent item an associated independent item is presented and the first request to purchase is suspended until the associated independent item is selected for purchase,”** “requesting, by the computer based system, at least one of access information and a selection to create a new account for the second account;” **“accessing, by the computer based system, the second account in response to receiving second account information, wherein second account information is received to define the non-tangible item,”** or “transferring, by the computer based system, at least one of (i) the non-tangible item to the second account in response to the non-tangible item being an independent item and (ii) the non-tangible item and the associated independent item in response to the non-tangible item being a dependent item” (emphasis added), as similarly recited in independent claims 17, 27 and 28.

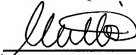
Furthermore, claims 18-26 and 29-33 variously depend from independent claim 17. As such, Applicants assert that claims 18-26 and 29-33 are differentiated from the cited references for the same reasons as set forth above, in addition to their own novel features. Thus, Applicants respectfully request allowance of all pending claims.

When a phrase similar to “at least one of A, B, or C” or “at least one of A, B, and C” is used in the claims or specification, Applicants intend the phrase to mean any of the following: (1) at least one of A; (2) at least one of B; (3) at least one of C; (4) at least one of A and at least one of B; (5) at least one of B and at least one of C; (6) at least one of A and at least one of C; or (7) at least one of A, at least one of B, and at least one of C.

Applicants respectfully submit that the pending claims are in condition for allowance. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. If an extension of time is necessary, please accept this as a petition therefore. Applicants invite the Office to telephone the undersigned if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

Dated: December 3, 2010

By:   
Mark Williams  
Reg. No. 64,425

**SNELL & WILMER L.L.P.**  
400 E. Van Buren  
One Arizona Center  
Phoenix, Arizona 85004  
Phone: 602-382-6542  
Fax: 602-382-6070  
Email: mwilliams@swlaw.com